



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,920	10/30/2003	Craig Henry Becker	AUS920030827US1	9648
35525	7590	03/06/2008		
IBM CORP (YA) C/O YEE & ASSOCIATES PC P.O. BOX 802333 DALLAS, TX 75380			EXAMINER SAUNDERS JR, JOSEPH	
			ART UNIT 2615	PAPER NUMBER
			NOTIFICATION DATE 03/06/2008	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptonotifs@yeeiplaw.com

<b>Office Action Summary</b>	Application No. 10/697,920	Applicant(s) BECKER, CRAIG HENRY	
	Examiner JOSEPH SAUNDERS JR	Art Unit 2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2008.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,3-6,12 and 14-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-6,12 and 14-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This office action is in response to the communications filed January 17, 2008.

Claims 1, 3 – 6, 12, and 14 – 16 are currently pending and considered below.

### ***Allowable Subject Matter***

2. The indicated allowability of claims 2 and 13 in the previous office action, now part of independent claims 1 and 14, respectively is withdrawn in view of a broader interpretation based on the newly discovered reference(s) to a dictionary definition of a calendar provided by Merriam-Webster's collegiate dictionary. Rejections based on the newly cited reference(s) follow.

### ***Claim Objections***

3. Claims 3 and 14 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Given the definition of a calendar provided by Merriam-Webster, that a calendar is nothing more than an orderly list, the difference between "a calendar program" and the "scheduling program" can not be ascertained from the claim. Therefore, claims 3 and 14 fail to further limit the parent claim.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1 and 12 ~~provides~~ states that the data structure is a file for a calendar program, and therefore does not result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure, in this case the file, is capable of performing the intended use, used for a calendar program, then it meets the claim. 55

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 3 – 6, 12, and 14 – 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bharati (Meditation and Self-Awareness CDs, <http://swamij.com/cd-timer.htm>) retrieved from <http://web.archive.org/> as it appeared on October 22, 2002, hereinafter, Bharati in view of James (US 6,910,038 B1), hereinafter James, McMahon et al. (US 2004/0019396 A1), hereinafter McMahon, and the definition of a calendar provided by Merriam-Webster's collegiate dictionary, hereinafter Merriam-Webster.

**Claims 1 and 12:** Bharati discloses a method in a data processing system for indicating an end of a session, the method comprising: an audio file that has a length equal to a duration of a session ("the length of the four OM Timers: 5-Minute, 10-Minute, 20-Minute, 30-Minute"), wherein the audio file includes a silent segment followed by an audio segment ("This CD is extremely simple. It is like a clock, an "OM Clock" in which there is the voice of a single OM, followed by complete silence, and then ending with a single OM.") and wherein the audio segment provides an indication of the end of the session when encountered during playing of the audio file (The single OM at the end of the track indicates the end of mediation time.). Bharati further discloses wherein a plurality of audio files are created on the storage medium ("There are five tracks on the CD.") in which each audio file corresponds to a given user session ("the length of the four OM Timers: 5-Minute, 10-Minute, 20-Minute, 30-Minute" and "All you have to do is click the track number on your CD player that matches the length of time of the practice.").

Bharati *does not disclose* receiving an identification and the duration of a session from a data structure containing a schedule, wherein the data structure is a file for a calendar program; and responsive to receiving the identification and the duration of the session, creating an audio file on a storage medium, according to the schedule. Since Bharati discloses the product of a CD containing an audio file that has a length equal to a length of a session, wherein the audio file includes a silent segment followed by an audio segment and wherein the audio segment provides an indication of the end of the session when encountered during playing of the audio file but does not disclose how to

make such a CD or how a user could customize such a CD as is well known in the art, therefore one would be inclined to look elsewhere for such a teaching.

James discloses a process, an apparatus, a system, a device, a method, and a computer readable media (Column 3 Lines 3 – 6) for recording to an optical media and further discloses, "Optical disc recording commonly involves recording (sometimes referred to as "burning) audio tracks or data files on one or more spiral tracks on an optical disc, Column 1 Lines 26 – 30. Although not explicitly disclosed a host system (computer system) contains a bus as illustrated in Figure 2A connecting the blocks 102, 202, 204, 112, and 114, a memory stores the CD recording software application or instructions connected to the bus, and processing occurs based on the instructions therefore a processing unit is also present in order to complete the task of recording an optical disc (Column 1 Line 36 – Column 2 Line 30). James also discloses, "the ordering data structures (schedule) are passed from the file system database block 202 (data structure, also a file hence the name "file system database block") to the CD recording engine 204 in the order in which the associated data files (sessions) will be written to the optical disc. In one embodiment, the CD recording engine 204 then follows the pointers (identification of a session) of the ordering data structures (schedule) and begins reading the data files (sessions) into the optical CD recording circuitry 112. It is the CD recording circuitry 112 that accomplishes the actual writing or burning of the data files (sessions) to the optical disc 114," Column 7 Lines 26 – 36. James further discloses where "the file size identifies the exact size of the file in bytes (or other suitable units of measure)," Column 5 Lines 9 – 14. McMahon discloses that to simplify

the burning process a graphical user interface or CD project screen is often used to simplify the burning process and that the duration of a track has a direct correspondence to the size of the file and therefore is used as an alternative to managing the free space remaining on a CD when a playlist is created by a user (Figure 5 and Paragraph 5) and therefore is also passed to a program responsible for burning a CD. McMahon also discloses that the process of burning a CD also has the advantage of a user customizable schedule or playlist thereby allowing the reordering of songs from a source location (Paragraphs 2, 10, and 11).

While James does not explicitly use the word "calendar" in describing his sequencing program, Merriam-Webster provides the definition that a calendar is nothing more than an orderly list. Therefore, since James clearly shows in Figure 2A the file system database block 202 being received by the CD recording engine 204, and since the file system database block 202 includes ordering data structures responsible for sequencing data files, the file system database block 202 is "a file for a calendar program".

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to make a CD or customize the CD of Bharati containing an audio file that has a length equal to a duration of a session, wherein the audio file includes a silent segment followed by an audio segment and wherein the audio segment provides an indication of the end of the session when encountered during playing of the audio file as disclosed by the method of James and McMahon and given the definition from Merriam-Webster thereby allowing for "a method for processing files that minimizes the

Art Unit: 2615

generation of lists that catalog location and attribute information about each data file before writing to the optical disc media," James Column 2 Line 66 – Column 3 Line 2 while also simplifying the reordering or creation of a playlist by a user through the use of the duration of the sessions and a graphical interface (McMahon, Paragraphs 2, 10, and 11).

**Claims 3 and 14:** Bharati, James, McMahon, and Merriam-Webster disclose the method, processing system, and computer program of claims 1, 12, 17, and 22, and James further discloses wherein the receiving step comprises: receiving an identification of the session from a scheduling program (Column 3 Lines 25 – 37).

**Claims 4 and 15:** Bharati, James, McMahon, and Merriam-Webster disclose the method, processing system, and computer program of claims 1, 12, 17, and 22, and Bharati further discloses wherein the storage medium is one of a compact disc ("CD"), a digital versatile disc, a flash memory, or an audio tape.

**Claims 5 and 16:** Bharati, James, McMahon, and Merriam-Webster disclose the method, processing system, and computer program of claims 1, 12, 17, and 22, and Bharati further discloses wherein the audio segment is music (the chant "OM").

**Claim 6:** Bharati, James, McMahon, and Merriam-Webster disclose method of claim 1, but *do not disclose* wherein the silent segment is 59 minutes long and the audio



Art Unit: 2615

segment is 1 minute long for a 60 minute session. It would have been an obvious matter of design choice to include a silent segment of any duration followed by an audio segment of any duration, since the only purpose of the audio segment is to indicate the end of a period of time and therefore it appears that the method would perform equally well with silence and audio segments of any duration, for example the long period of silence followed by an "OM" totaling 5, 10, 20, and 30 minutes as disclosed by Bharati.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Saunders whose telephone number is (571) 270-1063. The examiner can normally be reached on Monday - Thursday, 9:00 a.m. - 4:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on (571) 272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2615

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



JS  
February 29, 2008



**SINH TRAN**  
**SUPERVISORY PATENT EXAMINER**